

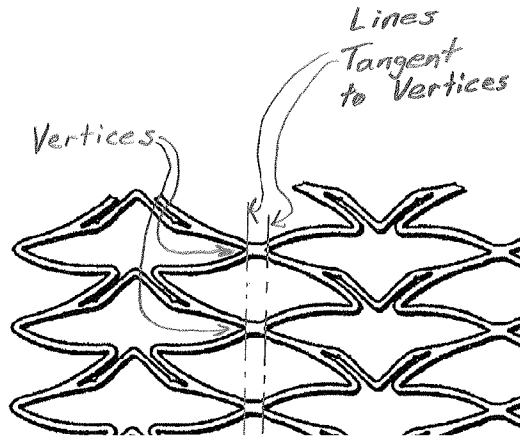
REMARKS/ARGUMENTS

Claims 1, 2, 5, 6, 9, 10, 12, 13, 15-18, 20, 21, 23, 24, 26, 27, 29-32, 34, 35, 37-40, 42, 43, 45-50, 52, 53, 55-58, 60, 61, 63-65, and 67-87 were pending at the time of the mailing of the outstanding Office Action. Claims 31, 32, 34, 35, 37-40, 42, 43, 45, 46, 49, 50, 52, 53, 55-58, 60, 61, 63, 64, 67-72, 76, and 78-85 have been withdrawn from consideration. By this amendment, claim 74 has been amended. No claims have been added or cancelled.

In the Office Action, the Examiner rejected claims 1, 2, 5, 6, 9, 10, 12, 13, 15-18, 20, 21, 23, 24, 26, 27, 29, 30, 47, 48, 65, 73-75, 77, 86, and 87 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner also rejected claims 1, 2, 5, 6, 9, 10, 12, 13, 15-18, 20, 21, 23, 24, 26, 27, 29, 30, 47, 48, 65, 73-75, 77, 86, and 87 under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1, 2, 5, 6, 9, 10, 20, 21, 23, 24, 26, 27, 47, 48, 86, and 87 stand rejected under 35 U.S.C. § 102(e) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over Alt (DE 19834956). Claims 12, 13, 15-18 29 and 30 were rejected under 35 U.S.C. § 103(a) as obvious over Alt (DE 19834956) in view of Hoefer (DE 19840645). The Examiner also rejected claims 65, 73 and 74 under 35 U.S.C. § 103(a) as obvious over Alt (DE 19834956) in view of Kveen (US Patent No. 6,261,319). Finally, the Examiner rejected claims 75 and 77 under 35 U.S.C. § 103(a) as obvious over Alt (DE 19834956) in view of Kveen (US Patent No. 6,261,319) and in further view of Hoefer (DE 19840645).

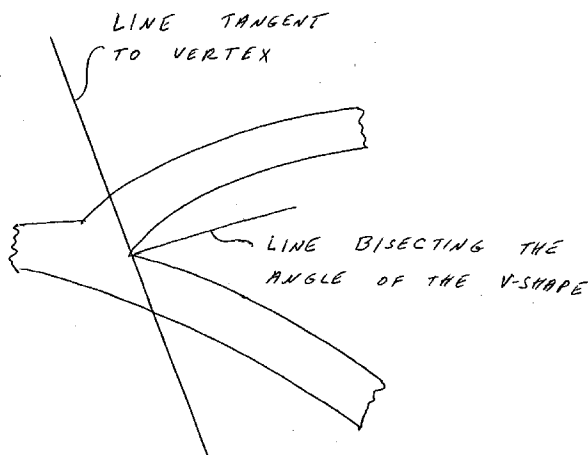
The Examiner maintains that claims 1, 2, 5, 6, 9, 10, 12, 13, 15-18, 20, 21, 23, 24, 26, 27, 29, 30, 47, 48, 65, 73-75, 77, 86, and 87 contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors had possession of the claimed invention at the time of filing. The Examiner further alleges that there is no basis in the original disclosure for the limitation found in claim 1, lines 12-16. This portion of claim 1 states, "...each bar element portion extending between two turning points and being defined by a line extending tangentially from a vertex of each V-shape and wherein a plurality of the lines extending tangentially from the vertices of the V-shapes are essentially perpendicular to a longitudinal axis of

the tubular body...” Despite the extensive explanation provided in the previous response, pointing out that support for this limitation is found in Fig. 3 and providing an annotated copy of Fig. 3, showing inherent support for the claim amendments, the Examiner maintains, “there is no basis in the original disclosure for (this) limitation.” Annotated Fig. 3, as provided in the previous response, is reproduced below:



In support of his contention, the Examiner provides what appears to be a freehand reproduction of a portion of the stent as Appendix A, reproduced below:

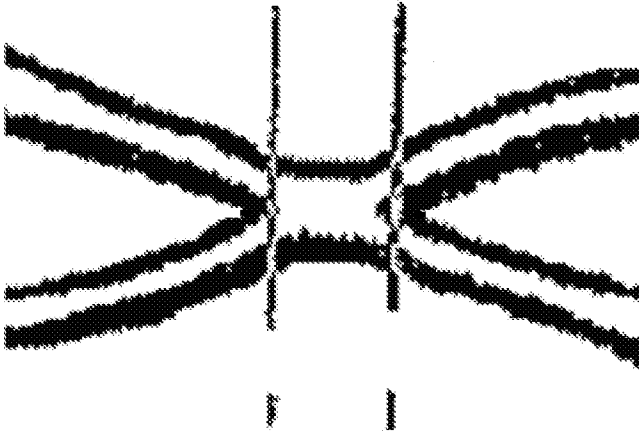
APPENDIX A



The Examiner provides this drawing, which forms the basis for this rejection, rather than referring to the Figures actually provided in the present application. Enlarging the previously provided annotated version of Fig. 3, one can clearly see that, contrary to the

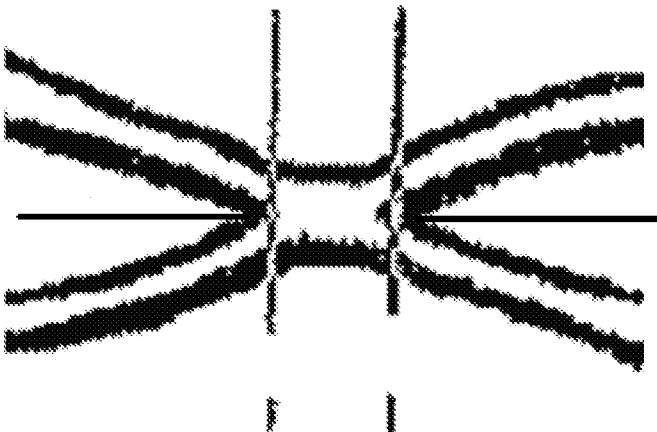
Examiner's assertion, a line tangent to the vertex of the V-shape is essentially perpendicular to the longitudinal axis of the tubular body.

Fig.3 - In Part; Annotated and Enlarged



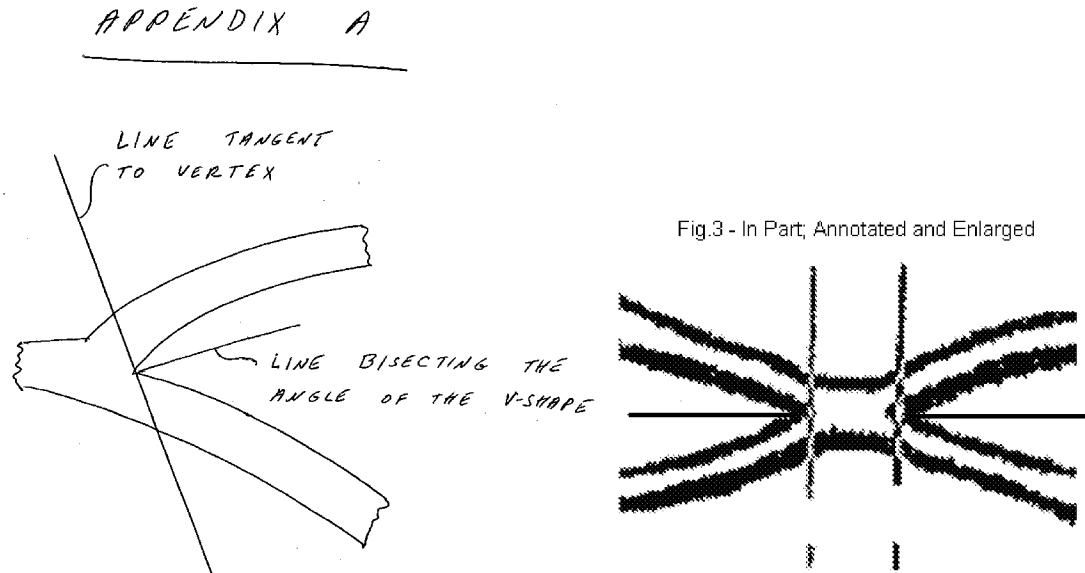
With regard to Fig. 73, enlarged Fig. 3 can be further annotated to insert lines bisecting the angle of the V-shapes, as provided below. In doing so, it is clear that lines perpendicular to lines bisecting the angle of the V-shapes are, in fact, essentially perpendicular to the longitudinal axis of the tubular body for a plurality of V-shapes.

Fig.3 - In Part; Annotated and Enlarged



Comparing the Examiner's drawing in Appendix A and the enlarged version of Fig. 3 side-by-side, the differences between the two become obvious. It is clear from these differences that the Examiner's reliance on the Figure in Appendix A of the final

Office Action is inapposite, because the drawing in Appendix A materially differs from the disclosure of the invention, particularly Fig. 3.



Therefore, contrary to the Examiner's allegations, the amendment to claim 1 that recites, "each bar element portion extending between two turning points and being defined by a line extending tangentially from a vertex of each V-shape and wherein a plurality of the lines extending tangentially from the vertices of the V-shapes are essentially perpendicular to a longitudinal axis of the tubular body" is fully and adequately supported by the disclosure of the specification such that one of ordinary skill in the art would understand the inventors to have possession of the claimed invention at the time of filing.

Similarly, the amendment to claim 73 that recites, "wherein the bar element portions extend between two turning points and are defined by a line extending perpendicular to a line bisecting an angle of the V-shape and passing through the vertex of the V-shape, and wherein a plurality of the lines extending perpendicular to the lines bisecting the angles of the V-shapes and passing through the vertices of the V-shapes are essentially perpendicular to a longitudinal axis of the tubular body" is also fully and adequately supported by the disclosure of the specification such that one of ordinary skill

in the art would understand the inventors to have possession of the claimed invention at the time of filing.

For these reasons, the Applicants request reconsideration and withdrawal of the rejections under 35 U.S.C. § 112, first paragraph.

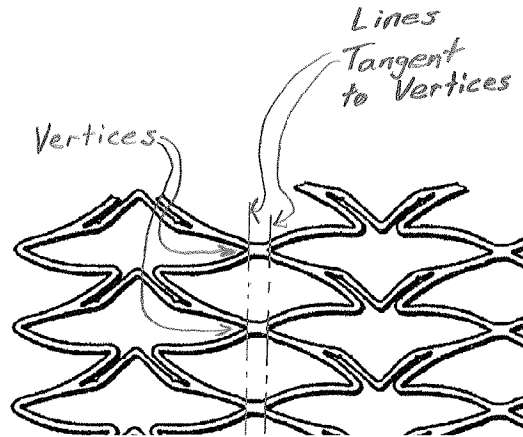
Claims 1, 2, 5, 6, 9, 10, 12, 13, 15-18, 20, 21, 23, 24, 26, 27, 29, 30, 47, 48, 65, 73-75, 77, 86, and 87 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter of the invention. The Examiner alleges that the claims are confusing and inaccurate for the reasons set forth regarding the rejection under 35 U.S.C. § 112, first paragraph. The Examiner also states that V-shaped connecting bars as recited in claim 74 have been previously recited in claim 73 as second connecting bars and that therefore, the transitional phrase “additionally comprising” in claim 74 is incorrect.

The Applicants’ response with regard to the rejection under 35 U.S.C. § 112, first paragraph is repeated with regard to the rejection under 35 U.S.C. § 112, second paragraph. Additionally, Claim 74 has been amended to recite that the second connecting bars are V-shaped. Therefore, the present claims are neither confusing nor inaccurate. Withdrawal of the rejection under 35 U.S.C. § 112, second paragraph is respectfully requested.

Claims 1, 2, 5, 6, 9, 10, 20, 21, 23, 24, 26, 27, 47, 48, 86, and 87 stand rejected under 35 U.S.C. § 102(e) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over Alt (DE 19834956). The Examiner cited the allegedly inaccurate language of the the amendments to claims 1 and 73 in support of this rejection. However, as discussed above, these amendments are fully supported by the specification and are neither indefinite nor inaccurate. Therefore, the Examiner’s consideration of the bar element portions and connecting bars as shown in Appendix B of the final Office Action do not accurately reflect the limitations of claims 1 and 73, as amended.

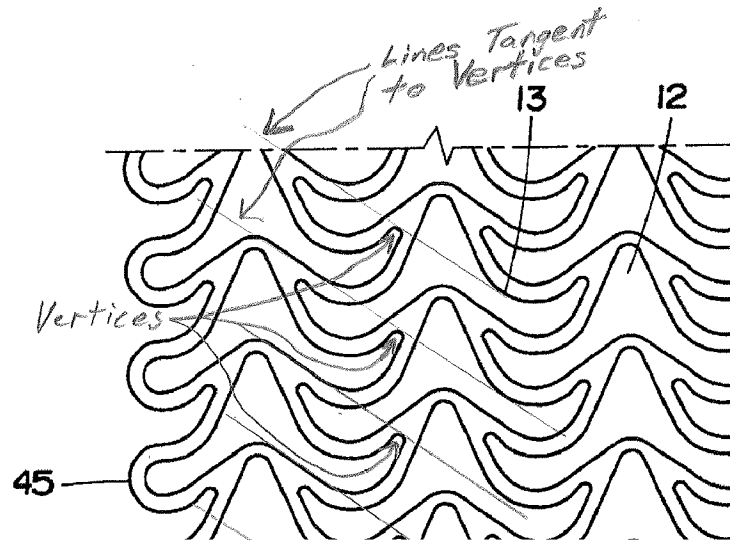
As stated previously, claims 1 and 73 recite that the bar element portions of the first annular support portion extend between two turning points and are defined by a line extending tangentially from a vertex of each V-shape or by a line extending perpendicular to a line bisecting an angle of the V-shape. A plurality of the lines

extending tangentially from the vertices of the V-shapes are essentially perpendicular to a longitudinal axis of the tubular body. A line tangent to the vertex may also be described as a line perpendicular to a line bisecting the angle of the V-shape. Additionally, the bar element portions extend to an identical extent in the longitudinal direction in a non-offset manner on at least one side of the first annular support portion as shown below.



The Figures clearly provide a stent having bar element portions which can be defined as recited in claim 1. Lines extending tangentially from the vertices of the V-shapes are also essentially perpendicular to a longitudinal axis for a plurality of vertices. In the embodiment shown in Fig. 3, the lines may also be considered to be co-linear as recited in claims 86 and 87.

Alt provides no teaching or suggestion of such a structure. Instead, any lines defined as a tangent of the vertices of the V-shapes of Alt are neither perpendicular to the axis of the stent nor co-linear, as illustrated below.



For the sake of clarity, tangent lines are provided above only for V-shapes present on one side of an annular support portion. However, it should be understood that corresponding tangent lines could also be drawn for the opposite side of the same annular support portion or for either side of any other annular support portion of the stent provided by Alt. In no instance would such tangent lines be perpendicular to the longitudinal axis of Alt's stent as recited by claim 1. Likewise, the bar element portions of Alt do not extend to an identical extent and in a non-offset manner in the longitudinal direction on either side of an annular support portion, as also required by claim 1.

Alt neither teaches nor suggests a stent as recited in the claims. Therefore the claims patentably distinguish over Alt. Withdrawal of the rejection of claims 1, 2, 5, 6, 9, 10, 20, 21, 23, 24, 26, 27, 47 and 48 as anticipated by, or as obvious over Alt (DE 19834956) is respectfully requested.

Claims 12, 13, 15-18, 29 and 30 stand rejected as being as being unpatentable under 35 U.S.C. § 103(a) over Alt in view of Hoefer (DE 19840645). As provided above, Alt does not teach or suggest a stent having bar element portions as defined in the claims. Likewise, Hoefer does not provide elements recited in these claims.

As stated previously, Hoefer does not provide bar elements portions that are entirely convex or concave over the entire length of the bar element portion as recited in the claims. It should also be noted that claim 2, from which claims 12, 15, 18 and 29

depend, specifically recites that the bar element portions are of a continuously curved configuration. Hoefer's bar element portions are not curved at all, much less are they continuously curved, but are instead a series of straight connected pieces. Therefore, one of ordinary skill in the art would not have found any teaching or suggestion in Hoefer of a stent with continuously curved bar element portions, where the direction of curvature changes in the longitudinal direction of the stent as recited in claims 12, 15, 18 and 29.

Additionally, claims 13, 16, 17 and 30 depend from claim 5, which recites that the bar element portions are either curved in such a way as to keep stresses that occur upon flexural deformation below a plastic deformation limit, or have a width that varies over their length. Hoefer provides neither of these elements. Therefore, claims 13, 16, 17 and 30, as well as claims 12, 15, 18 and 29 patentably distinguish over Alt and Hoefer, either individually or in combination. Withdrawal of the rejection of claims 12, 13, 15-18, 29 and 30 as being unpatentable under 35 U.S.C. § 103(a) over Alt in view of Hoefer is respectfully requested.

Claims 65, 73 and 74 have been rejected as obvious over Alt in view of Kveen (US Patent No. 6,261,319). Claim 65 recites that each of the V-shaped connecting bars is parallel to at least a portion of the bar element portion that the V-shaped connecting bar engages. Neither Alt nor Kveen teach or suggest a stent having such an arrangement. Kveen's connecting bars engage the central portion of the bar element portions but the connecting bars are clearly not parallel to any portion of the bar element portion to which they attach. Similarly, claim 73 recites that the second connecting bars engage a central portion of the bar element portions and are parallel to at least a portion of the bar element portion that the second connecting bar engages. Therefore claims 65, 73 and 74 patentably distinguish over Alt in view of Kveen. Withdrawal of this rejection is respectfully requested.

Claims 75 and 77 patentably distinguish over Alt in view of Kveen in further view of Hoefer for the reasons provided above. Therefore, withdrawal of the rejection of these claims under 35 U.S.C. § 103(a) is also respectfully requested.

Because one or more generic claims are believed to be allowable, as discussed above, the Applicants also request rejoinder and allowance of the claims of the non-

elected species, claims 31, 32, 34, 35, 37-40, 42, 43, 45, 46, 49, 50, 52, 53, 55-58, 60, 61, 63, 64, 67-72, 76, and 78-85.

The outstanding Office Action was mailed on December 12, 2007. The Examiner set a shortened statutory period for reply of 3 months from the mailing date. Therefore, no petition for an extension of time is believed to be due with this response. Nevertheless, the Applicants hereby make a conditional petition for an extension of time for response in the event that such a petition is required. No fees are believed to be due. However, in the event that a fee for the filing of his response is insufficient, the Commissioner is authorized to charge any fee deficiency or to credit any overpayment to Deposit Account 15-0450.

Respectfully submitted,

/John J. Cunniff/

John J. Cunniff
Reg. No 42,451

Hahn Loeser + Parks LLP
One GOJO Plaza
Suite 300
Akron, OH 44311

Attorney for Applicants